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PL-11

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

[Protest of Small Business Set-Aside Decision]

FILE: B-195104

DATE: September 20, 1979

MATTER OF: Otis Elevator Company *CPD 900990*

DIGEST:

1. Protest concerning decision to set aside for small business procurement which was canceled after bid opening because no bid was received from small business is dismissed as moot. GAO will not consider merits of protest since Bid Protest Procedures provide only for consideration of validity of award or proposed award of a contract.
2. After agency withdraws total set-aside for small business, proper procedure is to resolicit so that all eligible bidders have an opportunity to compete.

Otis Elevator Company (Otis) protests the total set-aside for small business concerns under invitation for bids (IFB) GS-05B-42012 issued by the General Services Administration (GSA) for elevator maintenance service. *AGC00017*

Otis alleges that the contracting officer lacked the requisite reasonable expectation that bids would be received from a sufficient number of responsible small businesses so that award could be made at a reasonable price.

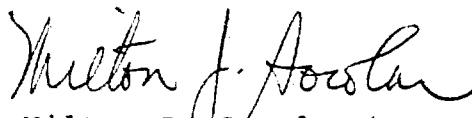
GSA advises us that it has canceled the IFB and is readvertising the solicitation without restriction because no bid was received from a small business concern. As a result of the cancellation of the original IFB, Otis' protest concerning that solicitation is moot. United Security, Inc., B-194867, June 21, 1979, 79-1 CPD 445.

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Otis, however, requests that this Office consider the merits of its protest notwithstanding GSA's actions because its protest is directed exclusively to the events preceding the decision to cancel the original IFB. We will not consider the protester's request because it concerns matters not for resolution under our Bid Protest Procedures, which are reserved only for considering whether an award or proposed award of a contract complies with statutory, regulatory, or other legal requirements. Schurr Transport, Inc., B-192476, September 26, 1978, 78-2 CPD 402.

Otis seems to believe that it should be awarded the contract on the basis of its low bid under the set-aside procurement. However, after an agency withdraws a small business set-aside, the proper procedure is for the agency to resolicit so that all eligible bidders may have an opportunity to compete. Culligan, Inc., B-192581, March 6, 1979, 79-1 CPD 149; Lawrence W. Rosine Company, 55 Comp. Gen. 1351 (1976), 76-2 CPD 159.

The protest is dismissed.



Milton J. Spcolar
General Counsel